CHAIR'S RULING

Re : Discussion of Matter under Adjudication by a Court of Law.

On the 21st of September 1962 notices were given of two adjournt motions by some of the Members of this august House. They run ollows :—

1. Tabled by Hon'ble Members Sri S. Sivappa and Sri S. M. Krishna:

"to move that this House be adjourned to discuss a definite matter of urgent public importance to wit the situation arising out of the recent death of 62 people at K.G.F. due to suspected poison in illicit intoxicant drinks."

2. Tabled by Hon'ble Member Sri S. Rajagopal:

"that this House be adjourned to discuss the recent incident regarding the death of 62 persons between the 15th and 18th instant in K.G.F. area on account of consumption of poison in illicit liquor."

The Hon'ble Minister for Health, on being called upon to do so by Chair, made a statement setting out the facts which were then ilable with the Government. Thereafter the Hon'ble Minister for Law ted that the First Information Report had been lodged in Courts in pect of some of the cases of death ; and it was likely that any cussion by the House on matters in which persons would be accused complicity in regard to these deaths and which would come up for udication in courts of law may prejudice a fair trial. He therefore gested that the adjournment motions should not be admitted. Both that day and the next day arguments were addressed by several Hon' Members about the admissibility of the motions. The Matter being great importance the Members desired to be heard in full before any ing was given by the Chair. In this House though these adjournment tions were disallowed by the Chair on 24th September the specific int as to the exact scope of the rule prohibiting the discussion of tters under adjudication by a court of law was reserved for a considerruling.

In the course of the debate in this House the Hon'ble Minister for me participated on 22nd September 1962. He stated that adjudition referred to in Rule 52 of our Rules of Procedure meant that in dition to those cases under judicial trial even cases under an enquiry under investigation were precluded from discussion on the floor of the ouse. He therefore argued that since First Information Reports had en forwarded in regard to some of the cases of the deaths referred to the adjournment motions and further investigation was going on, the atter must be held to be one under adjudication within the meaning of ule 52. He cited a number of decisions of the High Courts relating to he law of contempt of court. He referred in particular to AIR 1939 adras page 257, AIR 1950, PEPSU page 9 ; AIR 1955 Orissa page 36.

(MR. SPEAKER)

According to the Home Minister the test adopted by courts for determining the limits of contempt should also be applied for determining the scope of the expression "matters under adjudication by a Court of law".

So even in regard to cases which are about to come up before a Court of Law provisions of Rule 52 should be made applicable. He relied upon the follwing extract from the case reported in AIR 19 Lahore, 329 :

> "Proceedings need not actually be pending.....it is sufficient that proceedings are imminent to the knowledge of the person charged with the contempt,"

Relying on the above judgement the Hon'ble Minister for Home stated that in the present instance even though no case has been launched, court had taken cognizance of the matter, some of the accused have been arrested and therefore on the analogy of the judgements relating to the law of contempt of court, the adjournment motions should not be admitted.

The Hon'ble Minister for Law who also participated in the debate and spoke after the Hon,ble Minister for Home, supported the arguments of the Hon'ble Minister for Home. He further stated that this House was not competent to usurp the functions of courts of law and this House should not enter into discussion on the facts of the case or express its views as to whether certain persons committed an offence or not. He referred also to the fact that whatever privilege may be claimed by the House would not be available to the members of the Press gallery who would expose themselves to the risk of contempt proceedings in case they reported the proceedings of the House if discussion was permitted to go on. He ended up by saying that no useful purpose would be served by seeking to debate the matter in this House because the kind of things that were bound to be said during the debate were such that it would result in impairing the process of law and would adversely affect or would be likely adversely to affect the trial.

The above quoted arguments of the Hon'ble Ministers for Home and for Law supported as they are by judicial authority are entitled to the greatest consideration.

I have carefully perused the decisions cited above. I have also given a great deal of thought to this very important matter. What is of the utmost importance is that Hon'ble Members should not be denied such rights as they possess to deliberate upon matters pertaining to the administration of the State by the Government or upon matters of public interest or in fact of any matter whatever which the Hon'ble Members are entitled to discuss.

However, before I proceed to deal with the cases cited or the arguments advanced, I would like to make a few preliminary observations.

From a brief survey of our Constitution it is seen that there are three important branches of Government *i.e.*, the Executive, the Legislature and the Judiciary. The Executive is to a large extent controlled by the Legislature. The Council of Ministers who constitute the fountain source of the executive powers, passing orders and implementing the same are at all times dependent upon the support of the Legislature. As between the Legislature and the Judiciary, it is to be observed, one is not dependent upon the other. Both of them *i.e.*, the Legislature and the Judiciary are not dependent upon the Executive. Each of the two *viz.*, the Legislature of the Judiciary is supreme in its own sphere. That is the very essence of democracy. In all democratic Governments the Legislature is sovereign and supreme and enacts the wishes of the people and is therefore not subordinate to anybody else. Whatever decisions are taken by the Legislature have to be respected and obeyed by the Executive. Similarly democracy thrives on account of the singular independence of the Judiciary. The Judiciary is the gaurdian of the rights of the citizens in every respect. The Judiciary administers the laws and adjudicates upon infringement by the Executive of any just rights of the citizen or failure to recognise them. But the immediate point for consideration is the dependence or the interdependence or the exact relationship of the Legislature and the Judiciary. In this matter the three points that can be formulated with regard to the instant case that has arisen for consideration are as follows:—

(1) Is Legislature prevented from discussing a matter which is pending before any Court of Law either wholly or partially ?

(2) If it is excluded partially, what are the limits of such exclusion either in point of time or as regards the limits of debate ?

(3) If there is any infringement of one by the other *i,e.*, the rights and privileges of the Legislature by the Judiciary or Court of Law or *vice-versa*, if there is any infringement by the Legislature of the limits of debate in respect of matters pending before any Court of Law how is it to be solved ?

Before I deal with the points seriatim, I would like to make some prefatory remarks. The English Parliament has from the very inception functioned as the High Court of Parliament. Therefore to that extent it belongs to the category of Judiciary. It is a well-known principle that no Court of equal status can control another by its orders. Under the structure of courts, only courts which are subordinate to another, can be called upon by the superior or the courts with appellate powers to obey its directions. So the Parliament is not controlled by the Judiciary. In England therefore the House of Commons claims its exclusive right as sole authority to adjudicate finally upon any breach of privileges and this implies in theory the right to determine the existence and extent of privileges itself. The judgements of the House of Commons are not examinable by any other Court. They are not subject to any appeal. On the other hand the Judiciary or the courts of law regard the privileges of Parliament as part of the law of land of

(MR. SPEAKER)

which the courts are bound to take judicial notice. The decisions of the Court are not accepted as binding on the Parliament in matters of privileges. Likewise decisions of the House do not operate to prevent a Court from functioning within the limits of its jurisdiction. In theory therefore there may, at any given moment, be two doctrines of privileges–one held by the Court and the other by the House–one to be found in the Law Reports and the other to be gathered from the Hansard. There is no way of resolving the real point at issue, should any conflict arise. But in practice, however, there is much more agreement on the nature and principles of privileges than this apparent deadlock on the question of jurisdiction would make one expect. A committal for contempt by either House is in practice within its exclusive jurisdiction since the fact constituting the alleged contempt need not be stated on the warrant of committal. The field of agreement is thus wide. Speaking of these possibilities in 1884 Lord Coleridge C.J. said "but while I do not deny that as a matter of reasoning such things might happen it is consoling to reflect that they have scarcely ever happened in the long centuries of our history, and that in the present state of things it is but barely possible that they should ever happen again." If such a conflict should arise however, the House has its remedies in recourse to legislation. The courts of law have always refused to interfere in the application by the House of any of its recognised privileges. Thus it has been rightly remarked that the House of Commons constitutes the only judges of its own privileges and therefore whatever the House of Commons declares to be its privilege is such. Otherwise whoever determines that it is not so makes himself the judge of that whereof the cognizance only belongs to the Parliament.

It is in the light of the general principles that one has to deal with the provisions of the Constitution relevant to the matter now under consideration. Part V of the Constitution in Chapter II constitutes the Parliament (Articles 79, 80, 81, 89, 91, 93, 95 and 98). In Part VI, Chapter 3, the State Legislature is constituted (*vide* Articles 168, 170, 178, 180, 181, 182, 184 and 187). The Supreme Court is constituted under Art. 124 and is made a court of record under Article 129. The High Courts of the States are constituted under Art. 214 and have been also made courts of record under Article 215.

One point of distinction to be borne in mind is that under our Constitution unlike in England, fundamental rights have been provided (Articles 12 to 35). Out of these Art. 19 deals with freedom of speech. Freedom of Speech is again given to the Members of the Legislatures by specific provision (Parliament Clause 1 of Art. 105; State Clause 1 of Art. 194) to emphasise the importance and to safeguard the rights. Clause 2 of Art. 105 and Art. 194 runs thus:

"No Member.....shall be liable to any proceedings in any court in respect of anything said or any vote given by him..."

But the freedom of speech that is granted under Art. 19 is not untrammelled. Reasonable restrictions in common interests of the citizens have been permitted. So also Article 19 does not over-ride Article 194. All this is so because the broad proposition with regard to the freedom of speech is based on this—there could be no assured Government of people or any part of the people unless their representatives in question possess all the privilege of speech, discussion and debate. In a democracy decisions are taken either by unanimous vote or by vote of majority but before this conclusion is reached the Legislature is entitled to the fullest exposition of all matters relating to the points at issue. They should not only be allowed or permitted to be discussed, but discussion must be in an atmosphere free from fear or a chance of being harassed or proceeded against.

It is however, to be noted that this liberty of uncontrolled power of speech and discussion given to the members of the Legislature are likely to be improperly used. One of such occasions may be when a Legislature proceeds to discuss matters which have come before courts of law for adjudication. Independence of Judiciary to try a case free from any bias or influence of events that happen outside the limits of the courts is a basic principle that is to be respected. It is therefore, that courts have been given power to deal with persons who criticise or discuss matters, by way of proceedings in contempt of court. Fountain of justice should remain pure, uninfluenced or unbiased by any extraneous considerations. But the courts have no right to deal by way of contempt proceedings with regard to the deliberations of the Legislature or the Members who participate in such deliberations. Otherwise the supremacy of the Legislature and the freedom of speech and the privilege of the Legislature will be non-existent. The Legislature will then become subject to the control of the courts or the Judiciary.

Clause (1), Art. 194 or Art. 105 came up for judicial interpretation. In the well known case which is popularly called the search-light case, reported in AIR 1959 SCR 395, Sharma *Vs.* Srikrishna Sinha, the Hon'ble Chief Justice delivering the majority judgement of the court referred to this clause and stated " In the third place it may well be argued that the words ' regulating the procedure of the Legislature ' occurring in Clause (1) of Art. 194 should be read as governing both ' the provisions of the Constitution' and ' the rules and standing orders.' So read, freedom of speech in the Legislature becomes subject to the provisions of the Constitution regulating the procedure of the Legislature, that is to say, subject to the Articles relating to procedure in Part VI including Arts. 208 and 211, just as freedom of speech in Parliament under Art. 105 (1), on a similar construction, will become subject to the Articles relating to procedure in Part V, including Arts. 118 and 121. "

It will thus be seen that except those Articles in the Constitution which regulate the procedure of the Legislature and which as stated above are Arts. 208 and 211 and any others that may be found in Part VI, the only limitations to which this freedom of speech is subject have to be ascertained from the rules and standing orders

(MR. SPEAKER)

relating to the procedure of the Legislature. It therefore becomes clear that, with the exception of the above said articles of the Constitution, any limitations on this absolute freedom of speech can only be internal—that is imposed from within or by the House and can never be external.

The argument of the Hon'ble Minister for Law that a discussion would prejudice a fair trial is a matter more directed to the contents of the debate which can be ultimately governed by the Chair but does not really affect the simple question of the right to debate the matter. Merely because a Legislature has a right to debate a matter, it does not follow that the debate will or should be so conducted as to interfere with the course of justice.

It is to be seen at the outset that while clause 1 of Art. 194 has been expressly made subject to the provisions of Constitution, clause 2 has not been stated to be so subject. Even on this point the Supreme Court in the Searchlight Case has observed "In the second place, the fact that clause (1) has been expressly made subject to the provisions of the Constitution but clauses (2) to (4) have not been stated to be so subject indicates that the Constitution makers did not intend clauses (2) to (4) to be subject to the provisions of the Constitution. If the Constitution makers wanted that the provisions of all the clauses should be subject to the provisions of the Constitution, then the Article would have been drafted in a different way....." This makes the position clear that the protection afforded by clause 2 is in terms absolute. If it is a freedom available against any action whatsoever in any court of law, I fail to understand how the decisions under the contempt of courts law would cover the point at issue. I realise that the Hon'ble Home Minister and the hon'ble Minister for Law did not say that the members are likely to hold themselves liable under the Law of Contempt of Courts. I am, however, stressing this point to make it clear that there cannot be and that there is in fact no conflict between the sphere of work of the legislature and that of the judiciary. We have to balance these two spheres of activities, recognising on the one hand the need to allow the members the fullest liberty of debate in the public interest and recognising on the other the right of the courts of justice to function in their own spheres without interference or without being influenced or even without there being any possibility of being influenced thereby assuring every citizen or a fair trial.

Let me also examine what happens if we hold that the imminence of filing a charge sheet should mark the starting point for the prohibition against making a motion or undertaking a debate. We have to remember that there may be cases where in spite of the fact that a First Information Report has been lodged no further proceedings may emanate. The F.I.R. may not disclose the names of the accused. The police might find that there is no evidence in support of the occurrence, or investigation may disclose that the offence committed is something very different from what is noted in the F.I.R. Likewise persons finally

charged may be very different from those referred to in the F.I.R. In all such cases if we shut out debate in the House from the time of the filing of the F.I.R., we will be preventing a debate in the House to a much wider extent than is called for any particular case. We would be shutting out debate on matters which would not be *sub judice* by any stretch of the word. This becomes very clear when we remember that the statements made on behalf of the Government are lacking in particulars either with regard to the names or the nature of the other requisite details. What is stated was "F.I.Rs. had been lodged in courts in respect of some of the cases of death and it was likely that any discussion on matters in which persons (names not mentioned) would be accused of complicity in regard to these deaths (how not mention). Perhaps these particulars would have been furnished if this aspect had been mentioned to the hon'ble Ministers. Therefore it will be obviously impossible to work out a precise rule on the doctrine of imminences in any particular case. It is to be noted that it will be always a question of fact.

In the concept of a matter being *sub judice*, there has been some diversity of opinion with regard to its limits.

On the practical side however the matter has been treated as so free from doubt that we do not find any recent rulings in the Lok Sabha in this matter. I would however like to refer to two rulings given in the Old Central Assembly which runs as follows :

> "A Member while speaking shall not refer to any matter of fact on which a judicial decision is pending."

On 24th February 1938, a Member sought to move the adjournment of the Assembly to discuss—

> " the molestation of an Indian girl and firing of rescuers by European soldiers in Mathura District."

The President announced that unless the remaining railway demands were disposed of by 4.O'clock that day, the motion would be taken up the next day. On the next day when the motion was taken up at 4 O'clock the Leader of the House informed the President that the matter had become *sub judice* as a charge-sheet had been put up before the Magistrate. The president thereupon ruled :

> " It cannot be moved under the circumstances now disclosed. Yesterday, I admitted the motion and directed that it should be taken up to-day as the Demands for Grants of the Railway Budget had to be passed. To-day we are informed by the Hon'ble the Leader of the House that as a matter of fact the subject matter of the motion is now *sub judice* as a charge-sheet has been put up before the Magistrate in connection with the case."

and added :

(MR. SPEAKER)

"The Leader of the House has made it clear that a charge-sheet has been filed and the Magistrate has taken cognizance of the case under Sec. 190 of the Criminal Procedure Code. Therefore, the matter is *sub judice* and cannot be discussed in the House."

The second ruling given is in 1946. It was with regard to the admissibility of an adjournment motion regarding indescriminating arrest of Muslim league workers and others and wanton use of handcuffs and chains by the Delhi Police. The Government contended that the arrested persons were being charged in the court on that day and hence the motion should not be admitted. The Speaker, however, admitted the motion observing :

"If by 4.00 P.M. the legal proceedings are started, then the adjournment motion will have to be dropped."

When the motion was taken up at 4.00 P.M., Government stated that cases had since been filed in the courts and the matter was *sub judice* and could not be proceeded with. The speaker ruled that the fact that there were judicial proceedings instituted against the arrested persons, only restricted the scope of discussion on the motion to the handcuffing aspect only which was not going to be a matter of decision by the Court.

In the House of Commons, on the 28th of October 1948 during the debate on the address, Mr. Churchill who was speaking, referring to the denazification trials taking place throughout Germany stated :

"My attention has been drawn to the case of Barren Weisacker. I was asked to make some affidavit about him as many people in this country have been asked. I was not able to do so because I never met Weisacker; never being officially into contact with his work. He was a permanent official in the Foreign Office under Ribbentrop, in a similar capacity as Sir Alexander Cadogan was".

Mr. Elwyn Jones raising a point of order stated :

"Is it in order when the German civilian to whom the right hon. Gentleman is referring is on trial, that this matter, which is *sub judice,* should be brought into discussion."

Mr. Churchill replied :

"I am not attempting to deal with the merits of the particular case, on which the court will pronouns, and I am not informed upon them. I am using this as an illustration to show the kind of deadly error, which, in my opinion, is being committed at this time by the policy....."

After some further debate on the point of order, Mr. Speaker ruled :

"It appears to me that this person's name has been brought in as a rather hypothetical illustration of what is going on in the

American Zone, to which the right hon. Gentleman objects, I do not think it is a comment on the innocence of guilt of the individual and I do not think it can affect the actual trial."

In 1955 a question arose in the Lok Sabha whetehher the Prize Competitions Bill 1955 could be proceeded with in view of the fact that a case regarding prize competitions was pending before the Supreme Court. The Speaker allowed the motion for the consideration of the Bill to be proceeded with :

"With only this request to the Members that they will not refer to the fact—not of the law—but of the particular case under appeal. This is the only limitation on the debate."

In our own Legislature, this matter has been quite clearly stated in a ruling given as far back as 1957. On the 18th of September 1957, an adjournment motion relating to an explosion in Mysore had come up. While the Minister was trying to make the statement about the circumstances of the case, one Hon'ble Member stated that the matter is before the Court and therefore an adjournment motion should not be taken up. The Hon'ble Home Minister controverted this statement and said that the matter was not *sub judice*. After some discussion the Speaker observed :

"If the matter goes to a Court of Law tomorrow that cannot be *sub-judice* today."

The Hon'ble Minister thereupon requested that the matter could be taken up the next day so that he might be able to check up and find out the latest position. On the 19th September, soon after question hour, the Speaker observed :

"The consideration of notice of adjournment given by the Hon'ble Member Sri Veerappa regarding the explosion at Mysore on Independence Day was postponed yesterday in order to examine its admissibility because the question of *sub-judice* had been raised. Since it is now reported that this matter is in court, I hold that the motion is not admissible and therefore it is disallowed."

Though it is not immediately necessary for the purpose of this ruling, I should, however, like to refer to another relevent line of argument which relates to Art. 212 of our Constitution. Clause (1) of this Art. reads as follows :

"...The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure."

This Article in a series of cases, has been held to be an effective answer to an application for a writ or other direction sought to be

(MR. SPEAKER)

issued against either the Speaker or the Legislature. In 1952 AIR Orissa, page 234, the Bench of the Orissa High Court observed thus:

> "But quite apart from this the petition may be disposed of on the ground that Art. 212 of the Constitution operates as a bar to the jurisdiction of this Court being invoked for the issue of a writ under Art. 226 against the Speaker of the Assembly or the Secretary of the Assembly in a case of this kind...It was urged by Mr. Mohapatra, learned Counsel for the petitioner that this bar does not afford protection to the Speaker if the matter in question does not relate to the procedure or conduct of business of the Assembly. While the argument may appear attractive hypothetically, it is difficult to say that a point of order raised by a member, as in this case, as to whether a certain matter should be discussed or not in the Assembly does not relate to the conduct of the business of the Assembly...Whether that ruling is right or wrong is not a question on which the Court is competent to pronounce..."

Yet in another case, AIR 1956 Hyderabad, page 186, it is stated:

> "It is an elementary proposition of Constitutional law that both Parliament and State Legislatures are sovereign within the limits assigned to them by the Constitution...There is an inherent right in the Legislatures to conduct their affairs without any interference from any outside body."

The Calcutta High Court has also held similarly. In 1960 Calcutta Weekly News page 555, it is stated:

> "The powers, privileges and immunities of the Legislatures and their Members have been laid down in the Constitution. Within the Legislature Members have absolute freedom of speech and discussion. Subject to the provisions of the Constitution they can regulate their own procedure. In such matters and within their allotted spheres they are supreme and cannot be called into action by the Courts of the land."

Thus from an examination of the several articles of the Constitution and the judicial pronouncements, it is abundantly clear that there is freedom of speech in the Legislature. Freedom of speech is limited by the Rules of Procedure. All the Legislatures have imposed limitations in regard to debate concerning matters which are *sub judice* or may come in for adjudication by court of law.

Occasions are likely to arise and matters which are *sub-judice* will either knowingly or unknowingly be brought before the Legislatures. There are four ways in which it can take place, *viz.*, (1) during the question; (2) under motions; (3) under resolutions; and (4) with

regard to other debates on bills or otherwise. I would like to refer to them shortly and to the Rules that have been adopted in respect of these so as to bring out clearly the fact that though any check on debate is internal, nonetheless the Legislature has imposed upon itself the limitation of shutting out debate on matters under adjudication in order to avoid any prejudice to the course of justice. Giving examples of inadmissible questions it is made clear in May's Parliamentary Practice 16th Edition at p. 359, as Rule No. 6, it is said that no question "reflecting on the decision of a court of law, or being likely to prejudice a case which is under trial including a case tried by court-martial before confirmation" should be permitted. The Speaker has ruled privately that questions relating to a sentence passed by a judge, and to the circumstances under which rules of court were made and issued by the Lord Chancellor were inadmissible. Under the rules framed by the Lok Sabha, it is provided in Rule 41 that a question must not ask for information on a matter which is under adjudication by a court of law having jurisdiction in any part of India. The corresponding rule in the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly is as follows:

> Rule 36 Clause (a) "It shall not ask for information on a matter which is under adjudication by a Court of Law having jurisdiction in any part of India."

In respect of a suject-matter of motions, May's Parliamentary Practice page 400 says: That matters pending judicial decisions shall not be included for transaction of business in the House. A matter whilst under adjudication by a court of law, should not be brought before the House by a motion or otherwise. It has been decided as early as 1844. This rule does not apply to bills. The corresponding provision in the Lok Sabha is seen in Rule 58 clause (7) which runs as follows:

> "The motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India."

The rule in our Rules of Procedure, Rule 52 Clause (vii) relating to motion for adjournment on a matter of public importance provides:

> "the motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India."

Rule 53 is also relevant. It runs as follows:

> "No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into or

(MR. SPEAKER)

investigate any matter shall ordinarily be permitted to be moved:

Provided that the Speaker may in his discretion allow such matter being raised in the Assembly as is concerned with the procedure or subject or stage of enquiry if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal statutory authority, commission or court of enquiry."

With regard to resolution it is likewise provided in rule 173 clause (v) of the Rules of Lok Sabha that:

"it shall not relate to any matter which is under adjudication by a Court of Law having jurisdiction in any part of india."

Providing for conditions of admissibility of motions, it is provided in Rule 185 Clause (viii) of Lok Sabha Rules, that.

"it shall not relate to a matter which is under adjudication by a Court of Law having jurisdiction in any part of India."

Under Rule 210 Clause (xii) dealing with the matter of cut motions it is provided that it shall not ordinarily seek to raise a discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of e quiry appointed to enquire into or investigate any matter; provided that the Speaker may in his discretion allows such matter being raised in the House as is concerned with the procedure or stage of enquiry, if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of enquiry. Dealing with the rules to be observed while speaking, it is provided in the Rules of Lok Sabha in Rule 352, Clause (i) that a member while speaking shall not refer to any matter of fact on which a judicial decision is pending. Likewise in May's Parliamentary Practice while dealing with the rules governing contents of speeches it is said at page 457:

"matters awaiting the adjudication of a Court of law should not be brought forward to debate (except by means of a bill). This rule was observed by Sir Robert Peel and Lord John Russel both by the wording of the speech from the throne and by their procedure in the House, regarding Mr. O' Connell's case, and has been maintained by rulings from the Chair."

The other relevant rules in the Rules of Procedure and Conduct of Business in Mysore Legislative Assembly are: Rule 148 relating to motions which provides in Clause (viii) that "it shall not relate to any matter which is under adjudication by a Court of Law having jurisdiction in any part of India." Under Rule 166 relating to cut

motions under clause (viii) it is provided that it shall not ordinarily seek to raise a discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into or investigate any matter; provided that the Speaker may in his discretion allow such matter being raised in the Assembly as is concerned with the procedure or stage of enquiry if the Speaker is satisfied that it is not likely to prejudice the consideration of the subject matter by the statutory tribunal, statutory authority, commission or court of enquiry.

From what is mentioned above it is clear that generally matters which are *sub judice*, that is, matters which are pending adjudication before Courts of Law, are precluded not by any direction provision in the Constitution but by the Rules of Procedure and Conduct of Business framed for its own guidance, *i.e.*, by an internal check provided by the Legislature itself.

In conclusion I would only say that a Legislature always acts in aid of justice and not against it. Even if debate is permissible, as I have indicated above upto the stage of filing a charge sheet, I have no doubt that Hon'ble members who participate in any such discussion in the future would never seek directly or indirectly, consciously or unconsciously, to prejudice a fair trial. In a Legislature we are not so much concerned with the actual facts which go to prove or disprove the truth of a charge or accusation but we seek to discuss larger issues involving administrative responsibilities on the part of Government and such debate if properly guided can never be said to prejudice a fair trial of any particular case. The Presiding Officer may also be expected to so guide the deliberations that at no stage would it tend to interfere with the fair trial of a case.

Now I would like to refer to one argument advanced by the Hon'ble Minister for Law that an adjournment motion was in the nature of a censure motion against the Government and that in this particular case the Government cannot be held responsible for some individuals drinking poisoned illicit liquor. I might state that while in the past an adjournment motion may have been considered as a motion of censure against the Government, today it is recognised that it need not be so. It might well be that an adjournment motion is merely an opportunity claimed to discuss an emergent situation or a matter of urgent public importance in which the members would like to offer their criticism on the action of the Government or their failure to take adequate action or even to offer suggestions to the Government in regard to such urgent matters. In suitable cases Members may well claim this right of debate as representatives of the people who are interested in matters of public importance.

I do not want to follow the Hon'ble Law Minister in regard to the reference to Members of the Press gallery. I do not propose to offer them, nor I am sure do they require, any advice as to their responsibilities and duties.

(MR. SPEAKER)

My answers to the questions formulated above or as follows:

There is no absolute prohibition or total bar for discussion of any topic on the ground of a matter being *sub judice*. The bar is partially created under the rules of procedure, being limited to prevention of discussion on matters at issue before a Court of Law. The ambit of the discussion is limited to ensure that a fair trial of the case is not denied to the concerned parties. It is the duty of the Member and the Speaker alike to see that the debate does not transgress the limits indicated above. I would only quote the words of Mr. Attlee who was then Lord Privy Seal, when he said them,

> "I do not think there is any Member of this House who would wish to claim for himself or others the right to do something which if done by any other citizen would be wrong."

I am sure similar sentiments actuate every Hon'ble Member of this House.

The matter is equally well expressed on 4th December 1962 by the Speaker in the House of Commons when he observed.

> "I have not intended to widen in any way the ruling which I gave the other day. What I think is *sub judice*, as I have said, is that which, according to the terms of the Resolution, we have referred to the Tribunal. The only problem which thereupon arises is whether or not the particular supplementary question on which I ruled is one which goes into the field of those terms of reference. I will look at it again. I Should certainly like to consider the actual words used by the hon. Gentleman because, obviously, one has to work rather fast as Question Time. I did indicate, as the right hon. Member for Smethwick (Mr. Gordon Walker) will remember, that my ruling the other day would inevitably involve me in having to rule on a number of peripheral matters. The difficulty is increased in this case because the terms of reference to the Tribunal were particularly wide. It is peripheral matter of that kind on which I have ruled."

This was in answer to an observation by another Hon'ble Member Mr. Gordon Walker who said:

> "Obviously, the *sub judice* rule is very important but it would, I submit, be wrong to take it too far. Is it not the case that the *sub judice* rule means not that one may not make reference to a tribunal or court but that one must not make improper references ? If we take the rule so far as it seems that you are doing Mr. Speaker, in this last Ruling, is it not taken so far that we deprive ourselves of right which we ought to

have ? Clearly, any improper reference to what the Tribunal ought to do or to the subject matter before it would be wrong, but to extend the rule to the point where one may not make any reference at all to anything in connection with the Tribunal is going further than any court would go in enforceing its own *sub judice* rule, is it not ? ''

Therefore there should not be any doubts on the ambit of discussion that is permissible in such matters. The debate, however, requires to be guided precisely by and with great vigilance on the part of the Presiding Officer. Each case to which objection of *sub judice* is raised has to be decided on the facts of that particular case within the limits of the rule explained above.

PAPERS LAID ON THE TABLE

Sri R. M. PATIL (Minister for Home).—Sir, I lay on the Table of the House :—

Notification No. HD 123 TMT 61, dated 3rd December 1962 (Rescinding certain earlier notifications regarding reduction of tax payable) ; as required under sub-section (2) of section 16 of the Mysore Motor Vehicles Taxation Act, 1957.

MYSORE POLICE BILL, 1962

Motion to consider

(Debate continued)

†Sri D. PARAMESWARAPPA (Honnali).—Mr. Speaker, Sir, I have gone through the Mysore Police Bill and except making a few observations, there is nothing more for me to comment upon this Bill. That is what I wish to submit at the very outset. Yesterday, while moving the Bill, the Hon'ble Minister for Home explained the objects and reasons for having brought this Bill. One of the outstanding features of this Bill is the appointment of a Police Commissioner for the City of Bangalore because Bangalore City is a growing city and there is absolutely a necessity for a separate police officer ; therefore, the Home Minister felt that the appointment of Police Commissioner is very essential and he has made a provision in this Bill. To me it appears that when there is the Inspector General of Police and there is also the Deputy Inspector General of Police in the city of Bangalore, there is no need for a separate post of Police Commissioner for the city. The functions, the duties and the powers that are going to be exercised by the Commissioner can as well be exercised by the Inspector General of Police and the Deputy Inspector General of Police, whoever they may be. I submit that the creation of this additional post will involve additional expenditure and